



Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board North Coast Region

William R. Massey, Chairman

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Arnold  
Schwarzenegger  
Governor

January 3, 2007

Mr. Bill Phelps  
New West LLC  
P.O. Box 1031  
Saint Helena, California 95474

Dear Mr. Phelps:

Subject: Notice of Coverage, Waiver of Waste Discharge Requirements for Minor Dredging and Fill Activities, Freestone Flat Road Improvements and Stream Bank Stabilization Project, Freestone, Sonoma County

File: Freestone Flat Road Improvements  
Sonoma County, WDID No. 1B060630WNSO

This letter provides notice that certain proposed activities are covered by the Waiver of Waste Discharge Requirements for Minor Dredging and Fill Activities (Waiver), which was adopted pursuant to California Water Code Section 13269 by the California Regional Water Quality Control Board, North Coast Region, (Regional Water Board) in Resolution 2002-0080. It responds to Mr. Bill Phelps' March 20, 2006, application, on behalf of New West LLC (Applicant), for a Clean Water Act Section 401 Water Quality Certification and/or Waste Discharge Requirements for dredge/fill activities. Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website. No comments were received.

Project Description: The project involves the installation of steel sheet pilings along the outside of the old road edge to increase bank stability along Salmon Creek for the purpose of widening the road. Installation will occur in two sites, the first approximately 400 feet from the beginning of Freestone Flat Road, the second is approximately 600 feet from the beginning of the Freestone Flat Road; both of which are accessible from Bohemian Highway, one mile north of Bodega Highway.

**California Environmental Protection Agency**

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The steel sheet pilings will be installed from the top of bank directly adjacent to the roadbed. The installation of the pilings will involve removal of overhead cover and minor excavation at the top of bank for concrete wales that will be cast in place. The wales will provide stability for the steel sheet piles. At the first site, pilings will be installed along 15 lineal feet. At the second site pilings will be installed along 75 lineal feet. Both sites will be backfilled with native soils and topped with road base before being paved with asphalt concrete. Construction activities will not occur within the active Salmon Creek channel or below the Ordinary High Water Mark (OHWM). Because the Project involves the discharge of waste that may affect Waters of the State, the Regional Water Board has regulatory jurisdiction under Water Code Section 13260.

Receiving Water: Salmon Creek and the Bodega Hydrologic Unit 115.10.

Filled or  
Excavated Area:

Total Area Impacted: 0.001 acres of stream bank  
Area Temporarily Impacted (Restored): 0.00 acres  
Area Permanently Impacted (Not Restored): 0.0055 acres

Total Linear Impacts: 90.0 linear feet impacted  
Length Temporarily Impacted (Restored): 0.00 feet  
Length Permanently Impacted (Not Restored): 90.0 feet

Federal Permit:

The United States Army Corps of Engineers, in a letter dated July 18, 2006, stated that “. . . a Department of the Army authorization will not be required since the . . . activity will not involve the discharge of dredged or fill material into a water of the United States . . .” File Number 30244N

State and Local  
Approvals:

An application for a Lake and Streambed Alteration Agreement was submitted to California Department of Fish and Game on March of 2006. (Pending)

Compensatory Mitigation

Proposed for Implementation  
as Part of the Project:

Compensatory mitigation for the removal of vegetation will be attained through the revegetation with native species at a minimum of a 3:1 ratio. Precise details regarding plantings are not available because it is unknown how much vegetation will be removed. The planting palette will be selected according to the native species present in the disturbed areas. Plantings shall be monitored for three years to ensure their survival.

Non-compensatory  
Mitigation Proposed for  
Implementation as Part of  
the Project:

Non-compensatory mitigation shall be attained by the use of standard construction storm water Best Management Practices (BMPs). BMPs to be used will include seeding, erosion control blankets, and sediment barriers. These will be implemented to prevent erosion and sedimentation in Salmon Creek. Isolated concrete washout stations will be used onsite to ensure no contamination will discharge to Waters of the United States.

All fill material used on the site shall be clean and free of contaminants. A characterization report for all imported fill materials shall be provided to the Regional Water Board prior to the commencement of grading work.

CEQA Compliance:

On May 10, 2004, The Sonoma County Permit and Resource Management Department adopted a negative declaration (State Clearinghouse number 2004052038) for the project in order to comply with CEQA. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval, to avoid significant effects to the environment.

General Waiver  
of Waste Discharge  
Conditions:

The following is a partial listing highlighting selected standard provisions from Resolution 2002-0080:

1. "The Applicant shall comply with all applicable provisions of the Water Quality Control Plan for the North Coast Region."
2. "The Applicant shall discharge only in accordance with the submitted Report of Waste Discharge or equivalent (i.e., the Application)."
3. "The Project shall not create a pollution, contamination, or a nuisance, as defined by California Water Code Section 13050."
4. "There shall be no discharge of any waste not specifically regulated by waivers in Resolution 2002-0080."
5. "The Applicant shall allow Regional Water Board staff reasonable access onto the affected property for the purpose of performing an inspection to determine compliance with waiver conditions."

Additional Waiver  
of Waste Discharge  
Conditions:

The following from Resolution 2002-0080 apply specifically to dredge and fill activities.

"The Applicant shall comply with the following additional conditions:

1. Discharges shall be non-toxic, short-term, discharges to land.
2. The Project shall not result in a net loss of wetlands or beneficial uses.
3. This Notice of Coverage is valid only if operations are not being covered by General Waste Discharge Requirements."

Applicability of Waiver  
of Waste Discharge  
Requirements:

The proposed construction activity meets the eligibility criteria for the Waiver and, if constructed as described in the Application and in compliance with the above-listed conditions, the Project will adhere to applicable water quality standards. The applicant will monitor the re-vegetation site on a semi-annual basis and prepare

an annual report including photo documentation as to the success of the re-vegetation. It is expected that at the end of the monitoring period, in this case 3 years, there will be at least an 80 percent survival rate. Therefore, I have determined that the Project is covered by the Waiver.

Expiration: This Notice of Coverage expires upon completion of the Project or on December 31, 2008, whichever occurs first.

Please be aware that a failure to implement the Project according to the project description and other information submitted in the application may result in the revocation of this notice of coverage and the initiation of formal enforcement proceedings as authorized by provisions of the California Water Code.

Enclosed is a copy of the Waiver Policy for Minor Dredging and Fill Activities. This Notice of Coverage includes monitoring and reporting requirements as specified in Resolution 2002-0080. Please notify Stephen Bargsten of our staff at (707) 576-2653 before Project construction begins so that we can answer any public inquiries about the work.

Sincerely,

Catherine E. Kuhlman  
Executive Officer

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Enclosure: Waiver Policy (Res. 2002-0080)

cc: Nancy Dagle, SWRCB, Acting Certification and Wetlands Program Manager,  
Division of Water Quality

Michael Muelrath, Bartelt Engineering, 1303 Jefferson Street, 200 B,  
Napa, CA 94559